

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

MICHAEL L. FRANKLIN JR.,  
Plaintiff,

**8:21CV87**

vs.

**MEMORANDUM AND ORDER**

DEPARTMENT OF HEALTH & HUMAN  
SERVICES,  
Defendant.

This matter is before the Court on Plaintiff's motion to amend his complaint and set aside judgment, [Filing No. 68](#); amended motion to amend complaint, [Filing No. 69](#); and motion to reassign case to substitute the judge, [Filing No. 72](#). Plaintiff initially filed this action alleging defamation, breach of contract, tortious interference unfair business practice and discrimination. [Filing No. 1](#). Plaintiff filed an amended complaint. [Filing No. 16](#). Plaintiff added bad faith and emotional distress and deleted the discrimination claim. [Filing No. 16](#). Defendant filed a motion to dismiss, [Filing No. 19](#). Plaintiff then moved to withdraw his amended motion and to strike his amended complaint, [Filing Nos. 32 and 33](#). Thereafter, the magistrate judge recommended that the motion to dismiss be granted and the case dismissed without prejudice. [Filing No. 48](#). The plaintiff objected, [Filing No. 49](#), and also moved to recuse the magistrate judge, which was denied, [Filing Nos. 51 and 52](#). This Court then adopted the recommendation of the magistrate judge, [Filing Nos. 53 and 54](#), and dismissed the case. The Eighth Circuit summarily affirmed this Court. [Filing No. 64](#).

Plaintiff now files a motion to amend, [Filing No. 68](#); an amended motion to amend, [Filing No. 69](#); and a motion to reassign this case to a substitute judge, [Filing No. 72](#). However, as previously stated, this case was dismissed in Filings No. [53](#) and [54](#), and was affirmed by the Eighth Circuit. The case is over and there is nothing left to file. Accordingly, the Court will deny the motions as frivolous.

THEREFORE, IT IS ORDERED THAT Filing Nos. [68](#), [69](#), and [72](#) are denied.

Dated this 29th day of March, 2023.

BY THE COURT:

s/ Joseph F. Bataillon  
Senior United States District Judge